



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on August 2, 2005

Date of Meeting: June 28, 2005

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:45 p.m. on Tuesday, June 28, 2005, all members having been notified of the time and place thereof.

1. ROLL CALL

The meeting was called to order by Mayor Walkup and upon roll call, those present and absent were:

Present:

José J. Ibarra
Carol W. West
Kathleen Dunbar
Shirley C. Scott
Steve Leal
Fred Ronstadt
Robert E. Walkup

Council Member Ward 1
Council Member Ward 2
Vice Mayor, Council Member Ward 3
Council Member Ward 4
Council Member Ward 5
Council Member Ward 6
Mayor

Absent/Excused:

None

Staff Members Present:

Mike Hein
Michael Rankin
Kathleen S. Detrick
Liz R. Miller

City Manager
City Attorney
City Clerk
Assistant City Manager

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Reverend Lee Milligan, United Church of Christ, The Church of the Painted Hills, after which the pledge of allegiance was presented by the entire assembly.

Presentations:

- a. Presentation of a check by Trico Electric Power Cooperative and the Arizona Electric Power Cooperative to the City of Tucson for solar panel installation.
- b. Mayor Walkup, Vice Mayor Dunbar, and Council Member Ronstadt presented Colleen Crowninshield with an “Extraordinary Citizen” award for her dedicated service as Clean Cities Coordinator.
- c. Mayor Walkup and Vice Mayor Dunbar presented John Sawyer with an “Extraordinary Citizen” award and Ross Bryant and Carole Bonhorst with Certificates of Recognition and Appreciation for their service on the Campbell-Grant North East Neighborhood Association.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager’s communication number 360, dated June 28, 2005, would be received into and made a part of the record. He also announced this was the time scheduled to allow members of the Council to report on current events and asked if there were any reports.

- a. Vice Mayor Dunbar announced she would be hosting a town hall on June 29, 2005, at Salpointe High School from 6:30 p.m. to 8:30 p.m. The topic would be the Methamphetamine epidemic.
- b. Council Member West announced the “snake” had been installed in the median at Wrightstown and Pantano. A reception for the artists would take place on July 13, 2005. She also announced that Ward 2 had a Diaper Bank, and was a drop off location for the Community Food Bank.
- c. Council Member Scott recognized the twenty-fifth Operational Weather Squadron for their service to the country and for adopting a portion of Valencia Road. She also announced that the Ward 4 annual back to school bash would be held on August 13, 2005.

In addition, Council Member Scott read a letter addressed to Mike Hein, City Manager:

“My office is projecting to return twenty-five thousand, three hundred forty-four dollars and twenty-seven cents this year, from our Ward 4 budget, to the general fund. I am requesting your consideration for transferring this amount to the City’s Reserve

Fund. Please let me know at a future date if that is even possible. It has been an unfortunate series of occurrences where the City has depleted the Reserve Fund with no formal approval by this Mayor and Council, much less having a thorough public discussion. I believe it has been a disservice to our taxpayers and to the organization to risk our bond rating in that fashion. I hope that during your tenure, Mr. Hein, we will be able to begin to bolster that fund, so this Council can at some point in the future look at doing a new Tucson Parks and Recreation bond election. We desperately need to begin to address the four hundred million-dollar plus of unmet needs that no longer are listed in our Capital Improvement Program (CIP) budget. Our recent crisis with the elephant enclosure is a very good example of that need. Thank you.”

- d. Council Member Ronstadt showed drawings by children of the elephants and invited young citizens to the Zoo on July 9 and July 16, 2005 where supplies would be available to draw more pictures. He said donations for the elephant enclosure could be made to the Tucson Zoological Society. Council Member Ronstadt stated that in the last four years the Strategic Reserve Fund had been bolstered to over twenty million dollars which improved the City’s ratings with the Bond Rating Houses and saved taxpayers millions of dollars in interest. Money out of that fund had been used to build Mary Anne Cleveland Way, begin Rio Nuevo projects and support the biotech industry, all with Mayor and Council approval.

4. CITY MANAGER’S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager’s communication number 361, dated June 28, 2005, would be received into and made a part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

Mike Hein, City Manager, reported:

- a. He had received a cash donation for the elephant enclosure and it would be handled appropriately. He requested that future donations be sent to the Tucson Zoological Society.
- b. The American Public Transportation Association (APTA) announced Sun Tran received the 2005 National Outstanding Public Transportation System Achievement award. They captured the top prize in the “more than four million and less than thirty million passenger trips” category. This was the second time Sun Tran had been recognized for this achievement, the first time was in 1988. This was the second consecutive year Sun Tran had been recognized as an outstanding transit organization. Last year Sun Tran was named Outstanding Transit Organization by the Arizona Transit Organization.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 357, dated June 28, 2005, would be received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. New License

1. Shell, Ward 6
3901 E. 22nd Street
Series 10, City 43-05
Applicant: Tammy Sue Clarkson
Action must be taken by: July 11, 2005
Public Opinion: Support Filed
Staff has indicated the applicant is in compliance with city requirements.

c. Special Event

1. Southern Arizona Association for the Visually Impaired (SAAVI), Ward 3
3767 E. Grant Road
Applicant: Michael O. Gordon
City T48-05
Date of Event: August 5, 2005
Fundraising
Staff has indicated the applicant is in compliance with city requirements.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 7 to 0 to forward liquor license applications 5b1 and 5c1 to the Arizona State Liquor Board with a recommendation for approval.

6. CONSENT AGENDA – ITEMS A THROUGH K

Mayor Walkup announced the reports and recommendations from the City Manager on the Consent Agenda Items would be received into and made a part of the record. He asked the City Clerk to read the Consent Agenda.

A. INTERGOVERNMENTAL AGREEMENT: WITH TUCSON UNIFIED SCHOOL DISTRICT FOR INSTALLATION OF A PEDESTRIAN “HAWK” BEACON AT 22ND STREET AND EUCLID AVENUE

1. Report from City Manager JUNE28-05-359 WARD 5

2. Resolution No. 20116 relating to Transportation; authorizing and approving the Intergovernmental Agreement between the City of Tucson and Tucson Unified School District (TUSD) for installation of a High-intensity Activated Crosswalk (HAWK) pedestrian beacon at the intersection of 22nd Street and Euclid Avenue; and declaring an emergency.
- B. ASSURANCE AGREEMENT: (S04-008) INDIAN HOUSE VILLAGE SUBDIVISION, LOTS 1 TO 5
1. Report from City Manager JUNE28-05-358 WARD 6
 2. Resolution No. 20117 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing in connection with the approval in Case No. S04-008 of a Final Plat for the Indian House Village Subdivision, Lots 1 to 5; and declaring an emergency.
- Kathleen S. Detrick, City Clerk, announced Item B had a clerical correction to the caption of the resolution as it appeared in the agenda. The Resolution was accurate, but in the agenda a clause was deleted. In between the words “securing” and “in” should be the phrase “the completion of improvements required”.
- C. FINAL PLAT: (S04-008) INDIAN HOUSE VILLAGE SUBDIVISION, LOTS 1 TO 5
1. Report from City Manager JUNE28-05-363 WARD 6
 2. The City Manager recommends that, after approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- D. INTERGOVERNMENTAL AGREEMENT AND ADDENDUM: WITH PIMA COMMUNITY COLLEGE FOR EDUCATIONAL PROGRAMS FOR TUCSON FIRE AND POLICE DEPARTMENTS
1. Report from City Manager JUNE28-05-368 CITY-WIDE
 2. Resolution No. 20118 relating to Intergovernmental Agreements; approving and authorizing execution of an Intergovernmental Agreement and Addendum between the City of Tucson and Pima Community College for educational programs for Tucson Fire Department (TFD) and Tucson Police Department (TPD); and declaring an emergency.

- E. GRANT AGREEMENT: WITH THE TOWN OF ORO VALLEY FOR FEDERAL TRANSIT ADMINISTRATION GRANT FUNDS
1. Report from City Manager JUNE28-05-367 CITY-WIDE
 2. Resolution No. 20119 relating to Transportation; authorizing and approving the Intergovernmental Agreement between the City of Tucson and the Town of Oro Valley for a Federal Transit Administration (FTA) grant AZ-90-X071 for the preservation, improvement and operation of their mass transit system; and declaring an emergency.
- F. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR SEWER BILLING SERVICES, FISCAL YEARS 2006 THROUGH 2010
1. Report from City Manager JUNE28-05-366 CITY-WIDE AND OUTSIDE CITY
 2. Resolution No. 20120 relating to water; authorizing and approving the Intergovernmental Agreement with Pima County for Sewer Billing Services; and declaring an emergency.
- G. INTERGOVERNMENTAL AGREEMENT: WITH THE ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY FOR UNDERGROUND STORAGE TANK INSPECTIONS
1. Report from City Manager JUNE28-05-373 CITY-WIDE
 2. Resolution No. 20124 relating to Intergovernmental Agreements; approving and authorizing execution of Amendment One to an Intergovernmental Agreement between the City of Tucson and the Arizona Department of Environmental Quality (ADEQ) extending delegation agreement number 00-0018 for underground storage tank delegation; and declaring an emergency.
- H. WATER: SUBMISSION TO ARIZONA DEPARTMENT OF WATER RESOURCES TO MODIFY THE ASSURED WATER SUPPLY DESIGNATION TO INCLUDE ADDITIONAL WATER SUPPLIES
1. Report from City Manager JUNE28-05-365 CITY-WIDE AND OUTSIDE CITY
 2. Resolution No. 20121 relating to water; authorizing the modification of the City's Assured Water Supply Designation to include additional water supplies; and declaring an emergency.

I. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH ARIZONA GAME AND FISH FOR THE HABITAT CONSERVATION PLAN GRANT

1. Report from City Manager JUNE28-05-371 CITY-WIDE
2. Resolution No. 20122 relating to Intergovernmental Agreements; approving and authorizing execution of Amendment One to an Intergovernmental Agreement between the City of Tucson and the Arizona Game and Fish Department for the Habitat Conservation Plan Grant; and declaring an emergency.

J. APPROVAL OF MINUTES

1. Report from City Manager JUNE28-05-375 CITY-WIDE
2. Approval of minutes for the regular meetings of the Mayor and Council held on November 8, 2004, November 15, 2004, and May 24, 2005.

K. REAL PROPERTY: SECOND AMENDMENT TO GROUND LEASE WITH EL CAMPO PROPERTY RENTALS, LLLP, FOR PROPERTY LOCATED AT THE NORTHEAST CORNER OF 22ND STREET AND INTERSTATE 10

1. Report from City Manager JUNE28-05-369 WARDS 1, 5 AND 6
2. Resolution No. 20123 relating to real property; authorizing and approving the second amendment to the ground lease between the City of Tucson and El Campo Property Rentals L.L.L.P.; and declaring an emergency.

It was moved by Council Member Ronstadt, duly seconded, that Consent Agenda Items A through K, with the announced correction to Item B, be passed and adopted and the proper action taken.

Mayor Walkup asked if there was any discussion. Upon hearing none, he called for a roll call vote on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, Leal, and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: None

Consent Agenda Items A through K, with the announced correction to Item B, were declared passed and adopted by a roll call vote of 7 to 0.

9. CITY MAGISTRATES: APPOINTING A CITY MAGISTRATE AND ESTABLISHING MAGISTRATE COMPENSATION

(Note: This item was taken out of order).

Mayor Walkup announced City Manager's communication number 374, dated June 28, 2005, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10172 by number and title only.

Ordinance No. 10172 relating to City Magistrates; appointing a City Magistrate of the City of Tucson and fixing compensation; setting compensation of Magistrates and declaring an emergency.

Council Member Scott stated this was always a difficult decision for the Council. She also wanted to mention that two of the applicants were present, but one was not due to an accident that did not impair her ability to be a candidate for the position.

It was moved by Council Member Scott, duly seconded, to pass and adopt Ordinance 10172 appointing Patricia Mehrhoff as a City Magistrate.

Council Member Leal agreed it was a difficult decision. The Magistrate Merit Selection Commission was faced with an opportunity to make a recommendation of two people who were highly qualified. He said because he knew of Wendy Hernandez and her work for sometime he was inclined to make a substitute motion.

A substitute motion was made by Council Member Leal, duly seconded, to appoint Wendy Hernandez as a City Magistrate at the existing salary range.

Council Member West asked if the motion was for the ninety-two thousand, three hundred seventy-three dollar level.

Council Member Leal answered affirmatively.

In response to Council Members West and Leal, Michael Rankin, City Attorney, stated it would be appropriate to make a separate motion on the salary issue by moving to adopt the Ordinance with the exception of Section 2, which set the compensation level.

Council Member Leal stated he would prefer to keep the motion as it was.

Council Member West said she was in support of Council Member Leal's nomination, but she felt compensation should be at the five percent increase.

Council Member Scott withdrew her motion.

A substitute motion was made by Council Member West, duly seconded, to adopt Ordinance 10172 appointing Wendy Hernandez with the salary of ninety-seven thousand, forty-nine dollars.

Vice Mayor Dunbar stated the Council was in a difficult position and the nomination and salary compensation should have been separated.

Kathleen S. Detrick, City Clerk, stated the substitute motion was to pass and adopt Ordinance 10172, appointing Wendy Hernandez as a City Magistrate with the salary of ninety-seven thousand, forty-nine dollars, setting the term of office to be June 28, 2005 through June 27, 2009.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, and Scott

Nay: Council Members Leal and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

The substitute motion failed by a roll call vote of 3 to 4.

Ms. Detrick stated the primary motion was to pass and adopt Ordinance 10172, appointing Wendy Hernandez as a City Magistrate for the term commencing June 28, 2005 and ending June 27, 2009, at the salary of ninety-two thousand, three hundred seventy-three dollars.

Upon roll call, the results were:

Aye: Council Member Ibarra, West, Scott, Leal, and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: None

Ordinance 10172 appointing Wendy Hernandez as a City Magistrate at a salary of ninety-two thousand, three hundred seventy-three dollars was declared passed and adopted by a roll call vote of 7 to 0.

7. CALL TO THE AUDIENCE

Mayor Walkup announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except items scheduled for a public hearing. He also announced the Call to the Audience was scheduled to last for thirty minutes. Speakers would be limited to three-minute presentations.

- a. Michael Toney spoke on population control and the assured water supply.

- b. Mark Willimann, representing the Konarski family, requested an audience with Mayor and Council to resolve a feud between the City and the family.
- c. Robert Reus spoke on an initiative to promote change in government and his concern with the City Manager's area of residence.

8. PUBLIC HEARING: A-FRAMES AND PORTABLE SIGNS

Mayor Walkup announced City Manager's communication number 372, dated June 28, 2005, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on proposed amendments to the Tucson Sign Code, regarding A-frames and portable signs. Mayor Walkup said the public hearing was scheduled to last for no more than one hour. Speakers would be limited to five-minute presentations. He called on the first speaker.

Jesse Lugo, a life-long city resident, served on the Kinder Morgan Pipeline Citizens Task Force and the recent False Alarm Task Force. He and three other members who served on the False Alarm Task Force also served on the (Metropolitan Chamber of Commerce) Chamber's Sign Code Task Force. They followed some of the same procedures and shared in the wisdom of many individuals who were invited. He wanted to stress that the first public meeting was held November 1, 2004 and the last was on May 6, 2005. That totaled eight meetings where the public at large was invited. There was an attendance summary sheet of those who participated in each of those meetings. There were also four subcommittee meetings, where he was one of the six members who sat on the subcommittee. He strongly encouraged Mayor and Council to approve the ordinance as it was presented.

Jeremy Furrer does not live in the City, but said he supported the A-frame code; it would be easier and more affordable to obtain an A-frame.

Scott Slatkovski lives in the City of Tucson. He said he agreed with what Council Member West said during Study Session about small business being the economic backbone of the community. He believed this proposal would be good for small business, and he strongly supported it.

Dan Santa Maria, Chairperson of the Citizen Sign Code Committee (CSCC), submitted and read a prepared statement from the CSCC in support of the proposed ordinance.

Joe Higgins, a member of the Small Business Commission (SBC), stated what brought him there was a year and a half of trying to get a single A-frame permit. He hired three sign companies; the first one came back saying they were unsuccessful. The second one assured him they could get a permit for an A-frame for his business on Grant and Swan, but came back saying he would never get a permit at that location. So he got involved in the process, got appointed to the CSCC and the SBC and hired a third sign company. They walked step-by-step through the various regulations on the books and finally got a permit issued on his A-frame. He spent over one thousand dollars, just in

fees, trying to get the permit. He did that because A-frames worked. His business was "Sports Buzz Haircuts," which advertised heavily on radio, TV, prints, outdoor and nothing was as effective as the A-frame that sat in the front of his location. When it was out, they noticed a twenty-five to thirty percent increase in their traffic and they tracked it down to each individual customer. He was representing himself and all the other small business owners who depended on A-frames. Whether it was a flower shop, dry cleaner or café, A-frames were what brought customers to the door and what made businesses prosper. He supported this amendment; they worked hard on it and he thought it was worth the vote.

Pat Martin was a citizen of Myers neighborhood and had lived in the City since 1961. On behalf of Myers neighborhood and the Twenty-Ninth Street Coalition of five neighborhoods, she thanked Mayor and Council for being allowed to address them. Their Coalition and all of their neighborhoods were working very hard to improve the quality of life, decrease crime and develop the area into "the place" to live in Tucson. A tremendous amount of yard clean up, house beautification, and maintenance had been done by neighbors that year. Their work to create a beautiful neighborhood was undone if the appearance of the arterials which carried owners and visitors to their area was not also cleaned, maintained and beautified. The presence of many A-frames and other portable signs along the arterials had a very negative effect, creating visual pollution and blight. She spent over an hour on Sunday afternoon driving main streets in the Coalition area, noting A-frames and portable signs and other unsightly items. Her list of locations was detailed, but she would only give a summary and did not count real estate signs. On eight linear miles of six main streets there were twenty-two A-frames. Fourteen of the twenty-two were on the two miles of Twenty-Ninth Street. There were nine miscellaneous portable signs; five of these were on the two miles of Twenty-Ninth Street. There was one sign on a wheeled cart, approximately three or four feet square. Two of the A-frames were at businesses with free-standing signs. She was astonished to not see a City of Tucson permit on any of the thirty-two signs. She asked Mayor and Council to vote against the proposed ordinance that would allow even more A-frames. The businesses that used A-frames had not been responsible, and had not complied with the current temporary ordinance. She suggested Mayor and Council extend and enforce the existing temporary ordinance with increased fines, gather up all the non-permitted A-frames, and pass an ordinance permitting fines for any non-permitted A-frames and collect the fines. Only then would those who wanted to use A-frames come for a permit before it was installed, and the ordinance could be self-supporting and enforceable. Then businesses would maintain their A-frames and lessen the negative effect on their area and the City. After a trial period, if that did not work, then ban them like other cities in Arizona have done.

Yolanda Herrera LaFond, president of the Sunnyside Neighborhood Association and life-long Tucson resident, read from Chapter 3 of the Tucson Code. She said if Mayor and Council continued to allow A-frames throughout the City of Tucson, they would negate everything that was just read. She was seeing more and more of the broken window effect and it sent mixed messages to the public, as shown through the new City ordinance on the vendors. Instead of correcting the problem on the southside, it had

increased and become worse than it was in the beginning. One of the problems was that the City did not enforce the current ordinances. There was a budget crunch and they were talking about hiring more individuals to correct a problem that could be corrected by not allowing A-frames at all. She did attend some of the public hearings and subcommittee meetings, and could sympathize with small business owners. But at the risk of the public and creating an ugly City of Tucson she thought they needed to not have A-frames. The proposed ordinance did not require A-frames to be anchored; this was a windy city and A-frames could go flying. On the southside, people did not care and did not follow the rules, there were strobes and solar lights which were against City ordinances. City staff typically worked from eight to five and all the illegal A-frames popped up when no one was going to regulate them. She requested the City not have A-frames. She said on March 5, 2005 the Sunnyside Neighborhood Association had a neighborhood cleanup and picked up over eighty-five tons of trash, thanks to the City and Liz Miller, Assistant City Manager, who assisted. They were trying to eliminate smaller things and that created bigger problems.

John Schwarz, a member of the CSCC, stated they had heard speakers who favored the proposed ordinance and others who were opposed. He suggested a middle ground, a way of compromise, with a little background to start. Presently, most cities in Arizona had a prohibition against A-frame signs. Currently, Tucson allowed A-frame signs, but only for businesses without a freestanding sign. The basic principal behind the present ordinance was that every business should be able to have a sign, either a freestanding sign or an A-frame sign. The revised ordinance before Mayor and Council rejected that and the position of most cities in Arizona that prohibited A-frame signs. The proposed revision instead expanded A-frame signs to allow them to every business within the city limits, even those that already had a freestanding sign. The proposed A-frame ordinance would now permit A-frame signs to all chain stores, fast food markets and restaurants, gas stations and thousands of businesses that already had a freestanding sign. Those who supported that revision not only believed businesses needed those freestanding signs, they also said the revision would bring something good for the community. The supporters pointed out that permit fees for the new signs, plus the increased fees and penalties would raise revenue for the community that could offset the money needed to enforce the sign code effectively. Due to inadequate resources for enforcement, there were thousands of illegal signs all over the community. Supporters of the revised ordinance wanted to strengthen enforcement of the code to eliminate those illegal signs. If enforcement was successful, the result would be an overall reduction of sign proliferation in the City. That provided the basis for an effective compromise: adopt the proposed revised ordinance expanding the use of A-frame signs, but sunset it at the end of one year unless the City Council learned the sign code was effectively enforced as determined by a thorough independent review and consideration by the CSCC and the decision of the Mayor and Council. On that basis, the revised A-frame ordinance would become permanent if such a review suggested the sign code was effectively enforced. He asked the Mayor and Council to consider this kind of compromise. The City had an opportunity, by such an action, to considerably reduce the proliferation of signs throughout the City by enforcing the sign code ordinance effectively, even as it broadened permission to use A-frame signs. In his view, that

would be an excellent trade off and a wonderful outcome, for both businesses and the entire community.

Kim Fitch lived in Pima County, however, she was there as the Tucson Government Affairs Chairperson of the Arizona Multihousing Association and representing her company, Nicholossi and Fitch, which managed fifteen apartment communities within the City limits. They were in support of the new sign ordinance, as A-frames were an important part of their marketing program for their apartment communities to show any specials that were available or special events coming up. The monument signs on the properties were for name recognition only. She asked that Mayor and Council support the proposed ordinance. She thanked the Chamber's Sign Code Task Force and the CSCC who had worked on it. If it did pass, she already had an article written for their membership that would educate them on how to get A-frames permitted.

Jack Fitzgerald, a resident of Tucson and a member of the CSCC, had known Mr. Schwarz for almost thirty years and said they almost never agreed. However, he agreed with what Mr. Schwarz said that evening with the exception of the sunset statement. He thought the sunset should be at the end of thirty-six months. The problem of sign proliferation was that the average person in the City of Tucson either did not know how to get a sign permit, or they put a sign up and no one policed it. The sign code would not work unless it was thoroughly policed. There was a need for A-frames, but also for enforcement and when they were enforced, people would fall into line. Every small business, and occasionally large businesses, needed A-frames from time to time. He knew because he had owned many retail stores in the City and he understood the importance of advertising. He reiterated that the sunset needed to be after three years; he thought they would get more revenue, get more people using them, and it would reduce proliferation. He hoped that Mayor and Council would unanimously approve the ordinance.

Mark Mayer, a resident of the City of Tucson, said he had been involved in the issue off and on for over a decade representing various neighborhood organizations and that was the perspective from which he spoke. He encouraged Mayor and Council to support alternative number five, to allow the current temporary ordinance to sunset. They had been through a seven-year experimental period that had been a gross failure. If Mayor and Council were not inclined to support option number five, he thought the current ordinance should be continued on a temporary basis, and the section that stated A-frames were not allowed for businesses with freestanding signs be continued. The current state of the community did not seem to be reflected in the Study Session or the Regular Session thus far. They were in an abysmal condition in terms of temporary signage; the core City and southside had endless markets heavily draped with so many signs you could not see out the windows. He said Ms. Martin gave a good description of the Twenty-Ninth Street Coalition area. There were multiple A-frames in many locations, some put up in the right-of-way across the street from the business.

Mr. Mayer continued that it was not only representatives of neighborhoods or the environment who thought they looked bad. Seven years ago, the SBC polled many of its

business members and thirty-five businesses thought A-frame signs were aesthetically pleasing, while eighty-nine thought they were not. If that group thought they did not look good there was a serious problem, particularly when A-frames were out of control. He felt it was déjà vu all over again. Seven years ago, when the first temporary ordinance was adopted, they heard the same things over and over again. The situation was out of control then, a ban was adopted and there was opposition to that, so the first temporary ordinance was adopted. The representations were that if the business community were allowed to have some allowance for A-frames, then they would be supportive of making sure businesses complied. At the same, neighborhoods and design professionals said enforcement was needed. Enforcement did start, sweeps were done for a number of years, but when enforcement stopped, signs would reappear and that created the current situation. They had been through this before. They should not reward non-code compliance by allowing even more A-frames and making the ordinance permanent. If Mayor and Council were not inclined to let the existing temporary ordinance sunset, he urged them to have another temporary ordinance and go back to seven years ago when there was some effective code enforcement. One of the purposes of the sign code was to make the community appealing for tourists; if that kind of fiscal resource could go in that direction, why not do something local in that regard. The allowance in historic districts was extremely narrow for a very specific purpose and that had been overturned in this ordinance, too. In summary, if the Mayor and Council were not going to sunset the ordinance, any additional ordinance should also be sunsetted, the businesses that had very large signs should not have an A-frame in addition.

Kathy McLaughlin stated her family had been City residents since 1918, she was an architect and had been a member of the CSCC for thirteen years. She also felt this was déjà vu all over again. The issue had been prolonged and had failed. It was impossible to police because most people did not have a permit and without enforcement, there was no reason they should get a permit. There was enough competition on the City streets for attention and she did not think A-frames belonged there; they were not a marketing tool, they were supposed to be for identification, not for the latest sale or to attract attention. She encouraged Mayor and Council to vote against the ordinance and supported what others had stated very well regarding all of the issues, not just small businesses.

Brent Davis lived mid-town and had been involved in the sign wars for twenty-six years, starting in 1979 when he was a member of the Council and was the fourth vote for the City sign code that was adopted in 1980 by a vote of four to three. At that time, the sign code banned A-frames. Seven years ago, a committee was formed to try and bring back A-frames, and he served on that committee. The idea that was advanced at the time was A-frames were needed, because Tucson had businesses that were failing and the economy was not healthy. At the time, he was not in favor of it, but if they tried having A-frames and the business community supported it by getting permits, taking the signs in, and going by the ordinance, then they would have something. It did not happen. He took his own informal poll and drove seven miles down Speedway and Broadway, where there were eight to ten illegal A-frames per mile. In his opinion, the business community, of which he was a part, did not care about complying with an A-frame ordinance. By

definition temporary signage was difficult to enforce because people took it down and put it up. Weekends were worse than weekdays. His favorite car outlet on Speedway had thirty or forty illegal signs out, not A-frames, but the same as A-frames. He called many times to do weekend sweeps and he knew staff did what they could. Seven years ago, he said if it did not work, they needed to be banned and encouraged Mayor and Council to do that. They already had an experiment, it did not work and was not going to work. There would be hundreds of A-frames on the streets as a result of increasing the availability of A-frames.

Mr. Davis said the requirements for landscaping, building heights, and design review all existed to beautify the City, and A-frames did nothing to beautify the City. He said they were “junky,” and hazardous when they blew over in the wind. A-frames had no aesthetically redeeming value that he had seen. He thought the visual image of the city was enhanced by the prohibition of A-frames.

Regarding business non-compliance, Mr. Davis said no one would claim the business community had been good on its word to try to comply with the past ordinance, because it was not true. Other major communities such as Scottsdale and Phoenix, prohibited A-frames, and Tucson needed to head toward prohibition. Enforcement was difficult because the signs were temporary, by definition. Mr. Davis said A-frames were out of control, and there were three choices: to increase the proliferation of A-frames, to decrease their proliferation, or to close the chapter. He urged Mayor and Council to adopt option number five, which would ban A-frames and conclude the experiment.

Levi Jackson spoke on behalf of the Tucson Metropolitan Chamber of Commerce. The Chamber of Commerce urged Mayor and Council to vote in support of the proposed A-frame ordinance. The Chamber’s Sign Code Task Force had worked for six months to formulate the proposed ordinance by including a wide representation of stakeholders who had experience dealing with the ordinance as well as with A-frames, and by having meetings open to the public and publicized every month to offer the ultimate public participation. Now in the eleventh hour, all the nay-sayers had great words of wisdom and he wondered where they were during the whole process. Only one showed up and she had words of praise for the process. The proposed ordinance did streamline the application process, but it also added teeth to the ordinance. It was a road map to help alleviate the current, ineffective ordinance. In order for it to be effective, the City had to implement it and do its portion. The task force had done the work by doing the study, the research and housing the discussions. The business community was willing to comply with the law, there just needed to be a feasible process in order to do so. They were giving the City the tool and asking them to make use of it. They believed the ordinance to be a fair and equitable solution; the whole process had been a compromise.

Robert Reus lived in Tucson and understood both sides of the issue. The proliferation of A-frames was an unsightly blight on the City. The ordinance restricted the height to thirty inches, which was pretty short compared to what was currently in existence. It also established fines that would act as a disincentive; the only problem was that a free pass was granted for the first offense and that was a license to leave the sign

up. He thought if there was a fine for the first offense, even fifty dollars, it would make people think twice about leaving signs up once the ordinance passed.

Michael Toney said he was mainly concerned because it did get windy sometimes and it seemed like common sense to put a sand bag in the A-frames to weight them. He also did not like signs that were not aesthetic. He did not like the sign on Congress Street that had an obscene gesture. He thought Council would make a wise choice one way or the other.

It was moved by Council Member Ronstadt, duly seconded, and carried by a voice vote of 7 to 0 to close the public hearing.

Mayor Walkup asked the City Clerk to read Ordinance 10173 by number and title only.

Ordinance No. 10173 relating to Advertising and Outdoor Signs; amending the Tucson Code by amending Chapter 3; Article III, Permits, Fees and Inspections, Section 3-27; Article V, General Requirements and Limitations, Section 3-62 Portable Signs; and Article VI, Construction Specifications, Section 3-67, Materials and Execution Generally; providing for review of the amendments by the Citizen Sign Code Committee; and declaring an emergency.

In response to the public comments, Vice Mayor Dunbar confirmed A-frames were out of control and the current ordinance was a failure, but disagreed that the business community did not care. She stated they cared very much and that was why this group of people had been meeting for the last nine months. They wanted a resolution that would clean up how the City looked. She thought the biggest difference in the new ordinance was that it banned signs in the right-of-way. She wondered how many of the A-frames people saw today were in the right-of-way. Many businesses would be prohibited from temporary signs simply because they had no place to put a sign other than the right-of-way. Some people thought if you had a sign, you should not be able to have an A-frame, but it was not a world where things worked perfectly. She said not everything was the same and Tucson was not a cookie-cutter community. She thanked the Chamber's Sign Code Task Force. She said they had worked diligently on this, they asked for comments and feedback, and it was done out in the open. The proposed ordinance had gone through the subcommittee, it received unanimous approval from the CSCC except from Mr. Schwarz, and it received unanimous approval from the SBC except for one person who thought A-frames should be allowed in the right-of-way.

It was moved by Vice Mayor Dunbar, duly seconded, to pass and adopt Ordinance 10173 as recommended by the Citizen Sign Code Committee.

Council Member Scott asked about enforcement of the sign code after hours.

Ernie Duarte, Development Services Department Director, responded they would have to look at flexible schedules in terms of enforcement after hours and on weekends. He also confirmed the ordinance provided for a review in one year.

Council Member West read from Tucson Code Section 3-2: "The mayor and council declare the regulation of signs within the city is necessary and in the public interest: (a) To safeguard and enhance property values within the city; (b) To preserve the beauty and unique character of the city." She stated if they really believed that, they would do what Mr. Davis suggested.

A substitute motion was made by Council Member West that additional A-frame signs and revised fees should be used to enable effective enforcement of the City's sign code, that the City's amended ordinance go into effect for one year and would continue after that only if the ordinance had raised sufficient revenues to effectively enforce the sign code. If sufficient revenue had been raised to effectively enforce the sign code then the amended ordinance would remain in effect; if not, the ordinance would sunset. In addition, the City must immediately establish a measure to evaluate the effectiveness of the new enforcement activities of the City sign code.

Council Member Ibarra clarified the motion was for Ordinance 10173 with amendments, and seconded the motion.

Kathleen S. Detrick, City Clerk, asked for clarification from the City Attorney.

Michael Rankin, City Attorney, confirmed the amendments to the motion and said he thought the condition upon which the sunsetting or continuation of the ordinance would be based was not definitive enough. Council Members, or future Council Members, could have varying opinions on whether the enforcement action had been sufficient to sunset the ordinance. He thought an accurate reflection of the intent of the substitute motion would be to adopt the ordinance for one year, at which time it should return to the Council to evaluate whether the ordinance and its enforcement generated sufficient revenue to continue it.

Council Member West said she heard everyone say enforcement was not occurring. Beginning July 1, 2005 there would be four sign inspectors. The business community wanted this enforced. She wanted some measure put in place that showed the ordinance would be enforced. She thought it would be a good compromise and add some teeth to the ordinance Vice Mayor Dunbar moved to adopt. If the ordinance was not enforced, it would have to be eliminated.

Council Member Leal thought it was not the ordinance that failed, but the City's enforcement of the ordinance. It was unfortunate the City may have lost a sign inspector when some positions were frozen. The new person would have to deal with three to four hundred signs on their own, so they were still behind in dealing with the burden of sign enforcement. In the future he would like to deal with banners, which would take a fifth person. The sign area needed to be run like an enterprise fund. It could not be

permanent, it was an experiment, there were some significant changes being proposed. He believed A-frames were helpful to small business, but too many created visual clutter and people could no longer focus on a particular sign. They needed to see what happened after a year. Were there so many A-frames they were counterproductive. Was enforcement viable. The new inspector would need to work after-hours and on weekends. He did not think Vice Mayor Dunbar intended for this to be permanent if it did not work. As he heard the conversation, Council Member West's intention was already imbedded in Vice Mayor Dunbar's motion.

Council Member Leal said in order for the ordinance to be enforceable, the new person would need to work weekends, and from noon till 8 p.m. on weekdays. The ordinance did need to come back in a year to see if it created unintended clutter at the expense of helping small businesses, which was not something they could anticipate. He thought both of those things were addressed in the original motion.

Council Member Ibarra paraphrased the two aspects of the substitute motion; could it generate revenue, was it enforceable, and how were both measured. He asked the City Attorney how they could correct the motion to include the measurement aspect.

Mr. Rankin stated Council needed to specify in the motion what they expected staff to report back in a year. He gave some specifics: revenues generated by permit fees, court fines collected for non-compliance, enforcement statistics on the number of signs seized from the public right-of-way, number of signs that received a citation or a warning notice, and the number of business cited. If those things were made a specific part of the Council's direction, then they would be included in the report from staff in a year.

Council Member West withdrew her motion, but wanted to retain the part regarding sufficient revenue to enforce the code, the enforcement statistics including citations, the number of permits, the revenue from permits and court fees included. She wanted to know if the revenue side supported the enforcement side, and said it was a problem if it did not.

Vice Mayor Dunbar agreed to the amendments.

Mayor Walkup announced the primary motion had been amended, and the substitute motion withdrawn. He called on Council Member Leal.

Council Member Leal said he understood that Advisory Boards would review signs in the municipal Historic Districts. However, only municipal Historic Districts had Advisory Boards. He was concerned about the three National Register Historic Districts that did not have advisory boards to review A-frame applications.

Mr. Duarte stated provisions for review of signage in the historic districts remained unchanged by the current proposal. A-frames in National Register Historic

Districts would be unregulated unless the districts were residential, where A-frames would not be permitted.

Council Member Leal stated some of the National Register Historic Districts had arterials that went through them and were vulnerable. He did not have a specific recommendation, but he felt there needed to be some review process for National Register Historic Districts. He asked Mr. Rankin if the motion could include direction to staff to return with a recommendation on how to address National Register Historic Districts.

Mr. Rankin said the motion could include that direction to staff, as long as it was acceptable to the maker of the motion.

Vice Mayor Dunbar read from the ordinance, “an A-frame or portable sign may be permitted in a historic district after the review and approval of the Development Services Director, the applicable Historic District Advisory Board and the Tucson-Pima County Historical Commission.”

Mr. Duarte confirmed Council Member Leal’s statement that the Tucson-Pima County Historical Commission only reviewed applications that were first reviewed by a municipal Historic District Advisory Board, whereas applications in the National Register Historic Districts were not reviewed by the Tucson-Pima County Historical Commission.

Council Member Leal asked if the motion could include a request that asked for staff change that.

Mr. Rankin asked if what was accepted into the motion was that the ordinance as proposed would incorporate the National Register Historic Districts within the regulations that apply to municipal Historic Districts as defined, or just to come back later with information about to deal with the problem.

Council Member Leal would like National Register applications, even though they did not go through an advisory board, to be reviewed by the Tucson-Pima County Historical Commission since it had an advisory board that dealt with design. That would ensure some scrutiny and review and he felt it would be adequate.

Vice Mayor Dunbar agreed to include that as part of the motion. She also asked for a review or update in six months. If it was a failure, she did not want to wait a year to find out.

Mike Hein, City Manager, stated staff clearly understood the direction for cost recovery and enforcement criteria and would have a memo in a few days which reiterated that information. He anticipated they would be specific when they addressed Council Member Leal’s concern, which could involve returning with an amendment.

Mayor Walkup felt Council could ask for a review, administratively, whenever they chose and should approve the ordinance for one year.

Council Member Leal asked Mr. Duarte if the new sign inspector would work weekends and from noon until 8:00 p.m.

Mr. Duarte agreed that the new inspector would need to work weekends and weeknights. Furthermore, that would need to apply to the way the whole sign code enforcement section was run.

Ms. Detrick clarified the motion was for the ordinance as presented. The additional directions that had been discussed, including Mr. Leal's concern regarding the National Historic Register, were actually directions to staff to return with whatever was appropriate. But the ordinance as presented was what the Council was going to pass and adopt with the additional directions, not amendments to the ordinance.

Upon roll call, the results were:

Aye: Council Member Ibarra, West, Scott, Leal, and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: None

Ordinance 10173, with direction to staff, was declared passed and adopted by a roll call vote of 7 to 0.

9. CITY MAGISTRATES: APPOINTING A CITY MAGISTRATE AND ESTABLISHING MAGISTRATE COMPENSATION

(Note: This item was taken out of order and considered after Item 6)

10. FINANCE: FIXING AND LEVYING THE 2006 PRIMARY AND SECONDARY PROPERTY TAXES

Mayor Walkup announced City Manager's communication number 364, dated June 28, 2005, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10170 by number and title only.

Ordinance No. 10170 relating to taxation; fixing, levying, and assessing primary and secondary property taxes for the City of Tucson upon the assessed valuation of the property within the City of Tucson subject to taxation, each in a certain sum upon each One Hundred Dollars of valuation, sufficient to raise the amount estimated to be required in the annual budget, less the amounts estimated to be received from other sources of revenue and unencumbered balances from the previous fiscal year; providing funds for various purposes, all for the fiscal year ending June 30, 2006; and declaring an emergency.

Kathleen S. Detrick, City Clerk, stated the final clause, “and declaring an emergency” was not necessary for this ordinance as it did not require an emergency clause.

It was moved by Council Member West, duly seconded, to pass and adopt Ordinance 10170.

Council Member Ibarra asked if the primary and secondary taxes were increasing this year.

James Cameron, Budget and Research Director, stated the primary tax would decrease six cents; the secondary tax, which was driven by the sale of bonds, authorized by voters, would increase about six cents.

Ms. Detrick stated the emergency clause in the caption and in Section 6 of the ordinance had been deleted.

Upon roll call, the results were:

Aye: Council Member Ibarra, West, Scott, Leal, and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: None

Ordinance 10170, as amended, was declared passed and adopted by a roll call vote of 7 to 0.

11. ZONING: (C9-04-10) D.R. HORTON – WILMOT ROAD, SH AND C-2 TO R-2, ORDINANCE ADOPTION

Mayor Walkup announced City Manager’s communication number 370, dated June 28, 2005 would be received into and made part of the record. He requested the City Clerk read Ordinance 10171 by number and title only.

Ordinance No. 10171 relating to zoning: amending zoning district boundaries in the area located at the southeast corner of Wilmot Road and Interstate 10 in Case C9-04-10, D. R. Horton – Wilmot Road, SH and C-2 to R-2 (Ward 4); and setting an effective date.

It was moved by Council Member Scott, duly seconded, to pass and adopt Ordinance 10171.

Upon roll call, the results were:

Aye: Council Member Ibarra, West, Scott, Leal, and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: None

Ordinance 10171 was declared passed and adopted by a roll call vote of 7 to 0.

12. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 362, dated June 28, 2005, would be received into and made part of the record. He asked if there were any personal appointments to be made.

Council Member Ronstadt announced he was reappointing Edella Schlager to the Environmental Services Advisory Committee.

Mayor Walkup asked if there were any other personal appointments to be made. There were none.

13. ADJOURNMENT 7:34 p.m.

Mayor Walkup announced the Council would stand adjourned until its next regularly scheduled meeting to be held on Wednesday, July 6, 2005, at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 28th day of June 2005, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD:jk/sl